

**109 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CR No. 5492 of 2017

Date of Decision: 21.08.2017

JASBINDER SINGH SIEKHAM

-PETITIONER

VS

GENERAL PUBLIC

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Charu Verma, Advocate, for
Mr. Parshotam Lal Singla, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has assailed the order dated 17.08.2016 passed by Additional Civil Judge (Senior Division), Phillaur exercising the powers of District Judge under the Indian Succession Act, 1925 vide which application for grant of succession certificate under Section 372 of the Indian Succession Act was dismissed under Order 17 Rule 3 CPC and the order dated 03.05.2017 passed by Additional Civil Judge (Senior Division), Phillaur whereby application for restoration of the proceedings was also dismissed.

Petitioner being son of Darshan Singh and Surjit Kaur filed a petition under Section 372 of the Indian Succession Act after the death of his parents. The General Public was

proceeded against exparte. Petitioner sought issuance of succession certificate on the basis of his natural succession. Huge amount was lying deposited in the account of his parents. Darshan Singh died on 04.09.2014. Surjit Kaur died on 12.01.2014. The proceedings were conducted before the Additional Civil Judge (Senior Division), Phillaur.

Vide order dated 17.08.2016, the case was dismissed under Order 17 Rule 3 CPC for want of evidence on behalf of the petitioner. Thereafter, petitioner filed an application for restoration of the petition to its original position and permission to grant only one opportunity to conclude his evidence on the ground that on 17.08.2016, Numberdar of the village could not be examined due to his illness. The applicant could not appear in the Court because he was away to England and could not procure air tickets in time. Only Numberdar of the village is required to be examined to identify the petitioner and no other witness shall be examined by the petitioner.

In view of nature of order which this Court proposes to pass, there is no necessity of issuing any notice to the respondent as the respondent has already been proceeded against exparte before the trial Court.

Petitioner craves indulgence of the Court for grant of one opportunity for examining the Numberdar for the purposes

of proper identification of the petitioner as huge amount belonging to his parents is lying deposited in the bank.

Since, the General Public has already been proceeded against exparte before the trial Court, there is none to oppose the case of the petitioner.

In view of nature of prayer involved in the main case, I deem it appropriate to grant one opportunity to the petitioner to examine Numberdar of the village for the purpose of identification of the petitioner on a date to be fixed by the trial Court. It shall be the responsibility of the petitioner to examine the Numberdar without seeking any process of the Court subject to payment of costs of Rs.10,000/- to be deposited in the Legal Services Authority at Phillaur.

Disposed of.

21.08.2017
jjyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No